

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Vincent L. Barr, # 245797,

Plaintiff,

v.

G. Thomas Cooper, South Carolina Circuit Judge;  
J. Earnest Kinard, Jr., South Carolina Circuit Judge;  
Barbara Scott, Clerk of Court for Richland County;  
Vincent Smith, Assistant Solicitor; and  
Henry D. McMaster, Attorney General of South  
Carolina,

Defendants.

C.A. No. 2:05-1725-CMC-RSC

**OPINION AND ORDER**

Plaintiff is a *pro se* inmate at the Manning Correctional Institution of the South Carolina Department of Corrections and has filed this civil rights action pursuant to 42 U.S.C. § 1983. The complaint reveals that this action arises out of Plaintiff's guilty plea and sentencing proceeding held before Judge Cooper in the Court of General Sessions for Richland County on April 27, 2004. In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(b), (d), and (e), DSC, this matter was referred to United States Magistrate Judge Robert S. Carr for pre-trial proceedings and a Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

On June 22, 2005, the Magistrate Judge issued a Report recommending that this case be dismissed without prejudice and without issuance and service of process.

The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff filed his objections on July 13, 2005.

The court has reviewed Plaintiff's objections but concludes they fail to establish a cognizable claim for relief. After considering the objections, the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

IT IS THEREFORE ORDERED that this matter is *dismissed without prejudice and without issuance and service of process*.

IT IS SO ORDERED.

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
August 1, 2005

C:\temp\notes\FFF692\05-1725 Barr v. Cooper - adopting R&R dismiss without prejudice without service of process.wpd